HOW MUCH ARE AMERICANS AT RISK UNTIL CONGRESS PASSES TERRORISM INSURANCE LEGISLATION

STATEMENT BY DAVID L. MAIR
OF THE U.S. OLYMPIC COMMITTEE
AND THE RISK AND INSURANCE MANAGEMENT SOCIETY
BEFORE THE SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS
COMMITTEE ON FINANCIAL SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

SUE KELLY, CHAIRWOMAN

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Good afternoon Chairwoman Kelly, Congressman Gutierrez and Members of the Subcommittee. My name is David Mair. I am the Director for Risk Management for the U.S. Olympic Committee. I am also the President of the Risk and Insurance Management Society (RIMS), the largest professional organization for the risk management community. I appreciate the opportunity to appear before you today on an issue of vital importance to U.S. businesses and the U.S. economy – commercial insurance coverage for terrorism.

RIMS members – *the consumers of insurance* – include 84 percent of the Fortune 500 companies, as well as approximately 950 companies with less than 500 employees. RIMS represents over 4,000 *commercial policyholders*, many of whom are experiencing stratospheric property/casualty insurance renewal rates for significantly less coverage for terrorism. This situation is a result of insurance companies' inability to obtain reinsurance since January 1, stemming from the impossibility of predicting and pricing terrorist acts.

As a risk manager, my job is to measure threats to the physical, financial and human resources of the U.S. Olympic Committee. I must weigh these threats and determine the best possible ways to reduce them. One of the key elements of that process is the purchase of insurance. The insurance companies that I buy coverage from must be able to quantify the risk that my organization faces in order to prevent their own insolvency in the event of a catastrophe. In turn, the insurers spread the risk that they assume by obtaining reinsurance.

Fortunately for commercial policyholders and the U.S. economy, the industry was able to pay all claims from the September 11 attacks, despite the staggering costs. However, as with any business sector, this industry has limits on its financial capacity. Those limits, strained before the terrorist attacks, have been stretched even further.

The fallout from September 11, and its nearly $40-70 billion price tag, pushed the insurance market to its financial limits. It introduced a horrific, incalculable risk to the United States. It exceeded, in its human, financial and emotional devastation, all of our worst-case scenarios. And it has forever changed the insurance and reinsurance marketplace, impacting the U.S. economy and businesses to a much greater degree than many realize.

With the reinsurance market quickly vanishing at the end of 2001, insurers realized that they would have no outlet to spread the considerable risk present in a time of ongoing and increasing terrorist threats. Policyholders looking to the insurance industry for support against the potential for catastrophic situations faced a devastating new reality – the absence of coverage for losses related to terrorism. With reinsurers clearly declaring their intent to exclude this exposure, policyholders and the insurance industry turned to the government as a source for support in uncertain times.

As the expiration for most reinsurance contracts drew near and no federal backstop was approved, insurers did what they had to do to spread their risk and protect their solvency. They requested and obtained exclusions on terrorism coverage in commercial policies from state insurance departments. While the National Association of Insurance Commissioners expressed its hopes that such a step would not be necessary, when Congress was unable to enact this critical legislation, insurance commissioners in 46 jurisdictions let insurance companies out of the game. Commercial policyholders were not so fortunate.

So, now the buck has stopped with these policyholders – companies, large and small, in cities and rural areas that employ tens of millions of American workers. These businesses have, since January 1, assumed nearly all of the risk of owning commercial property and operating in a country that has been targeted for destruction by the most unpredictable type of enemy.

Coverage for the U.S. Olympic team was in place prior to September 11 under a long-term policy set to renew after the Olympic Games. However, at the end of November, one of our key insurers was downgraded. Suddenly, I found the USOC back at square one. Before September 11, terrorism coverage, an insurance line that many businesses had taken for granted, was a standard inclusion in most commercial property policies. Yet now, very few insurers offer it. Those that do are forced to price this coverage extremely high. It then becomes so unaffordable as to be generally unavailable.

After discussions with more than 40 different companies, the USOC was finally able to secure general liability coverage on February 9, the date of the Opening Ceremonies for the Olympic Games. We received two quotes, neither of which included terrorism coverage. We suffered a reduction in limits of 45 percent and a premium increase of 250 percent. Finally, on the day before the Salt Lake City Games and after working for almost 70 days, we were able to secure 5 percent of our expiring General Liability limit in terrorism coverage (with a B+ carrier) at 100 percent of our expiring premium, which left us significantly short of the amount of coverage we desire for terrorism insurance. Now we face a scheduled renewal for other lines of coverage, and we have received information that suggests further significant price increases and an absence of coverage for terrorism losses.

Our situation is similar to that faced by commercial policyholders across the country. I am here today to speak to you because the Olympic Winter Games have concluded without incident. And the significant risks, over which so many were concerned and to which so many resources were devoted, can now be spoken of publicly. Many of my risk management colleagues, at companies across America, and my fellow RIMS members, are not in the same position. They are still enduring an agonizing renewal process, or, more likely, their companies are concerned about shareholder reaction if their lack of terrorism coverage was publicly revealed.

Many U.S. businesses are being offered only $1,000,000 in terrorism coverage, in stark contrast to the hundreds of millions of dollars of terrorism coverage that they received in previous years, forcing these companies to bear extraordinary risk all on their own. Accounts of economic hardship among commercial policyholders are not relegated exclusively to those in "high-risk" areas; the affected membership of RIMS spans the country, and includes small, mid-sized, and large businesses.

Several RIMS members have, confidentially, provided our Society with information on how scarce, and prohibitively expensive, terrorism insurance has impacted their renewal process. Here are just two examples:

- A company in Georgia had all quotes from an October 1, 2001 renewal immediately withdrawn following the September 11 attacks. They finally placed blanket property coverage at the end of September with approximately 10 underwriters for 25 percent of the coverage they had the previous year.
- In Colorado, another company experienced a property insurance premium increase of 54 percent. Only $1,000,000 of terrorism coverage was offered to the company this year, versus the $250,000,000 that was available last year.

Financial institutions are also in an unenviable quandary. Some will claim that these companies are not calling in loans on large-scale properties. While there appears to be an absence of calls related to breach of loan covenants, it is not because coverage is being found. Simply put, financial institutions cannot call in loans on commercial properties that are now unable to obtain adequate insurance coverage because the banks do not want to absorb the entire risk of that uninsured property.

I commend those members of the House that voted to pass the terrorism insurance bill last November. I ask you to strongly encourage your colleagues in the Senate to approve their own legislation as soon as possible. The Senate itself was the victim of a terrorist attack last October when Majority Leader Daschle's office received a letter laced with anthrax. The Hart Senate Office Building was shut down for months; as a result Congressional staff was displaced and millions of dollars were expended in relocation and building clean-up. If this had happened to a private company, without the assets of the government, it would have been devastating, possibly putting them out of business.

Regularly, we hear of new threats to the security of our country, planned terrorist assaults to our cities that could become reality. The threats and the risks have not abated. The need for a federal reinsurance backstop is as critical today as it was in the fall, perhaps even more so as our economy struggles out of recession and the insurance markets fight to rebuild capital. How can the American business community, still reeling from September 11 and the economic downturn, be expected to assume all of the property risk in the war on terrorism? How do we explain to American workers that the construction sites and office buildings that they work in every day are not adequately covered in the event of a devastating attack? Or that future business projects, employee benefits, perhaps even their very jobs may be jeopardized?

I have full faith that the reinsurance markets will return eventually, and the industry will maintain its health and vibrancy. But until that time, we are taking an increasingly risky gamble with the financial foundation of American businesses. We are holding our collective breath that nothing else will happen. But if something does happen, U.S. companies – by extension their employees – will bear the consequences.

We have entered an era of unknown peril. The federal government is doing its utmost to see to the security of our borders and cities. These necessary defensive measures must include the stabilization of insurance markets and of the economy. This is not an issue of bailing out the insurance industry, but an issue of protecting and preserving our economy in the event of another major terrorist attack on the American people. Affordable and obtainable insurance is a hallmark of a healthy economy. Commercial policyholders request and deserve action on this issue.

Thank you for providing leadership at this critical time. I appreciate the opportunity to appear before you today.

Attachment 1 (of 2)

The Risk and Insurance Management Society, Inc. (RIMS)
Statement of Principles
On Terrorism Reinsurance Capacity

The United States economy, in all its sectors, including real estate, construction, manufacturing, financial and transportation, is dependent on adequate insurance coverage. Insurers, in turn, must be able to spread the risk that they assume on behalf of individuals and businesses by purchasing reinsurance. At the end of 2001, approximately 70 percent of all reinsurance policies expired. Due to the financial uncertainties of predicting terrorism activities, most reinsurers refuse to include terrorism coverage in 2002, leaving the insurance industry without the financial backstop that reinsurance provides.

It is imperative that Congress and the Bush administration take prompt action to maintain a robust insurance industry, which is crucial to assuring the continued strength of the U.S. economy. RIMS supports federal intervention to guarantee a viable property and casualty reinsurance source for U.S. policyholders. RIMS believes the following principles should determine the course of terrorism reinsurance legislation:

- **All insurers of U.S. policyholders, with domestic and international properties, should have access to an industry-driven reinsurance mechanism.**
  This mechanism would guarantee a viable property and casualty reinsurance source, stability for policyholders and a healthy insurance and reinsurance market. A voluntary reinsurance pool would allow the industry to build reserves in case of future terrorist attacks.

- **"Acts of terrorism" and "acts of war" need to be clearly defined.**
  Precise definitions are required to meet our new reality. The definition of both "acts of terrorism" and "acts of war" should include a state law pre-emption to eliminate conflicting interpretations.

- **Federal support for the insurance industry should be limited to five to six years.**
  Involvement by the federal government should be simple, clear and limited. As the world faces an unprecedented situation, the federal government should assume a temporary role to assist the insurance industry in the event that future terrorist acts deplete the industry's resources. However, the length of time should be long enough for the private markets to recover and become viable again.

- **Lines of coverage should not exclude business interruption or workers' compensation.**
  While property coverage is certainly required, business interruption and workers' compensation insurance are two of the most essential coverages in an organization's risk management program, and should be included in any federal reinsurance mechanism.

For more information, please contact RIMS External Affairs Department at 212-655-6046 or jwaldman@rims.org.

RIMS (http://www.rims.org) is a not-for-profit organization dedicated to advancing the theory and practice of risk management, a professional discipline vital to the protection and preservation of physical, financial and human resources. Founded in 1950, RIMS represents nearly 4,000 industrial, service, nonprofit, charitable, and governmental entities. 84% of the Fortune 500 companies are RIMS members. The Society serves 8,000 risk management professionals around the world.